

**United States Department of the Interior  
Bureau of Land Management**

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**Decision Record  
Categorical Exclusion**

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DOI-BLM-W020-2015-0006- CX

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**March 2015**

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**Fillmore Wind (Orion) - Wind Testing and Monitoring Project**

**Location:** T. 21- 25 S., R. 7-10 W

***Applicant/Address:*** Orion Wind Resources LLC  
155 Grand Avenue, Suite 706  
Oakland, CA 94612

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Fillmore Field Office  
95 East 500 North  
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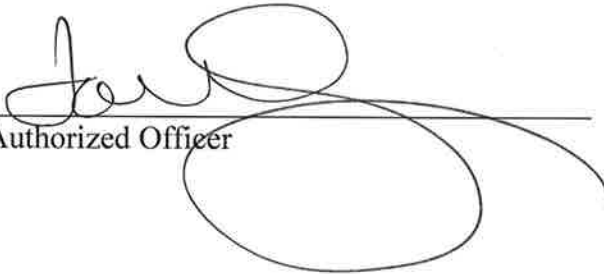


**DECISION RECORD**  
**Categorical Exclusion**  
DOI-BLM-W020-2015-0006- CX  
**Orion Wind Resources LLC**  
**UTU-090121**

**Decision Statement:**

Based on a review of Categorical Exclusion (CX) DOI-BLM-W020-2015-0006 and field office staff recommendations, I have determined that the action is in conformance with the Warm Springs Resource Management Plan and is categorically excluded from further environmental analysis. It is my decision to approve the proposed right-of-way grant with the Special Stipulations contained in Attachment A to this document.

This CX is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

  
\_\_\_\_\_  
Authorized Officer

3-3-16  
\_\_\_\_\_  
Date

**ATTACHMENT "A"**  
**March 1, 2016**  
**Orion Wind Resources, LLC**  
**UTU-090121**

1. The Holder of this right-of-way grant or the Holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964" (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
2. The Holder shall observe all Federal, State, and local laws and regulations applicable to the premises and shall keep the premises in a neat, orderly, and sanitary condition.
3. The Holder shall indemnify or hold harmless the United States against any liability for damages to life, person or property arising from the authorized occupancy or use of the public land under the right-of-way grant.
4. The Holder shall conduct all activities associated with the operation, maintenance, and termination of the right-of-way on public land, within the authorized limits of the described right-of-way unless otherwise approved in writing by the Authorized Officer.
5. Prior to entering BLM land, all construction equipment and vehicles will be cleaned of soils, seeds, vegetative matter, or other debris that could contain or hold noxious seeds. The Holder shall clean all vehicles and equipment using a pressure washer or compressed air before entering the work site. If a noxious weed infestation occurs, the Holder will be responsible for control measures as directed by the Authorized Officer.
6. Existing roads and trails will be used for travel to the maximum extent feasible unless otherwise authorized. During wet road conditions, any ruts deeper than 4 inches remaining on the roads from Holder's vehicles will be repaired to the Authorized Officer's discretion. The cost will be borne by the Holder and any work will be coordinated with the Authorized Officer.
7. Where "cross country" access is necessary, **clearing vegetation or grading a roadbed will not be authorized.** All construction and vehicular traffic shall be confined to the right-of-way or designated access routes, roads, or trails unless otherwise authorized in writing by the Authorized Officer. When practical, data collectors are to hike to the tower or SODAR to collect information. **All temporary roads used for construction shall be rehabilitated after construction is completed. Only one 14 foot wide access route will be permitted to each site requiring "cross country" access.** These "cross country" access routes will be flagged.
8. Any relocation, additional construction, or use that is not in accord with the approved permit, shall not be initiated without the prior written approval of the Authorized Officer. No such approval will be given unless the request is fully justified by the Holder. A copy of the complete right-of-way grant, including all stipulations, maps and approved plan of development, shall be made available to the Authorized Officer on the right-of-way area during construction, operation, and termination.
9. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the Holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the Authorized Officer. Holder shall suspend all activity in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss

of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the Authorized Officer after consulting with the Holder.

10. All met tower and SODAR construction activities are to be consistent with the intent and application of the BLM Wind Energy Policies and Best Management Practices 2005.
11. If any sensitive species are discovered during construction or maintenance activities, all activities that may affect this resource will cease and notification will be made to the Authorized Officer.
12. The action shall be conducted in a manner that does not cause a “take” (i.e. harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect) of any wildlife. Any “take” or wildlife problems are to be reported to the BLM biologist. All wildlife is to be appreciated and given their space to carry out their biological/ecological activities.
13. The proposed action is to avoid/minimize any undue or significant impacts to the habitat that will degrade or reduce the function and availability of food, cover, water and space. If habitat is degraded by activities beyond that anticipated, the BLM biologist is to be informed so that possible mitigation measures can be developed to rehabilitate the site.
14. All burrows and burrow communities are to be avoided to the greatest extent practical. Any observations of Utah prairie dog or any evidence is to be reported immediately to the BLM biologist.
15. Preferably, construction of the met tower and the placement of the SODAR equipment would occur from September 1 – February 28 to avoid/minimize any disturbances to nesting owls and migrating birds. If construction is proposed within the nesting season, a pre-construction survey by a qualified biologist for raptors, burrowing owls and migratory birds will need to be completed prior to any construction activities beginning.

The golden eagle nesting season occurs from January 1 – August 31 (Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances 2002). If a golden eagle nest is located during the pre-construction survey, a 1.0-mile no activity buffer is to be established around the nest and remain in place until the young have fledged and/or the nest becomes non-active. Fillmore Wind is to follow-up and coordinate with the BLM biologist on how to proceed if a nest is located.

The Ferruginous hawk nesting season occurs from March 1 – August 31 (Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances 2002). If a Ferruginous hawk nest is located during the pre-construction survey, a 0.5-mile no activity buffer is to be established around the nest and remain in place until the young have fledged and/or the nest becomes non-active. If a nest is located, Fillmore Wind is to follow-up and coordinate with the BLM biologist on how to proceed if a nest is located.

The burrowing owl nesting season occurs from March 1 – August 31 (Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances 2002). If a burrowing owl nest is located during the pre-construction survey, a .25 mile no activity buffer is to be established around the nest and remain in place until the young have fledged and/or the nest become non-active.

Similar management requirements will also be applied to other raptors (i.e. prairie falcon, red-tailed hawk, and Swainson’s hawk for example) as well. A copy of the Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances 2002 is attached as appendixes to this document for specific guidelines by species.

The migratory bird nesting season extends from May 15 thru July 15 (IM 2008-050, Migratory Bird Treaty Act – Interim Management Guidelines). Preferably, operations would occur outside these dates from July 16 thru May 14. If operations occur during the migratory bird season, a pre-construction survey by a qualified biologist is to be conducted for nesting birds. If an active nest is identified, a 100 ft. no-activity buffer is to be established around the nest site and remain in place until the young have fledged and/or the nest becomes non-active.

16. If new extraordinary circumstances (i.e. federal species listings) or other direct and indirect impacts are identified or become apparent during the construction and operations of the met towers, project timeframes, levels of activity; and structures may need to be reviewed and possibly adjusted accordingly.
17. **The applicant is highly encouraged to install anabat units on the met towers to begin collecting information of bat species.** Bats have the potential to be a focal point of any future wind energy development and information gathered will very helpful in any future NEPA analysis.
18. **All guy wires are to be stripped, flagged and /or adapted with bird deterrent fixtures to help avoid/minimize bird/bat collisions.** Any wildlife mortalities occurring on site or near the action area are to be documented and reported to the BLM biologist so that remedies can be discussed and implemented.
19. **For safety purposes, all met towers will need to be marked in a manner that will enhance the visibility of these structures by pilots in low level flight operations. Additionally, the Federal Aviation Agency recommends that high visibility spherical markers or cable balls (aviation orange) be attached to the guy wires and as close to the top of the met tower as possible.**
20. The area disturbed by installation of meteorological towers (i.e., footprint) or SODAR units shall be kept to a minimum. No litter or garbage is to remain on public lands. When equipment is no longer needed, it will be removed and the area will be reclaimed to its original condition.
21. The Holder or its contractors will notify the BLM of any fires and comply with all rules and regulations administered by the BLM concerning the use, prevention and suppression of fires on federal lands, including any fire prevention orders that may be in effect at the time of the permitted activity. The Holder or its contractors may be held liable for the cost of fire suppression, stabilization and rehabilitation. In the event of a fire, personal safety will be the first priority of the Holder or its contractors. The Holder or its contractors will:
  - a. Operate all internal and external combustion engines on federally managed lands per 36 CFR 261.52, which requires all such engines to be equipped with a qualified spark arrester that is maintained and not modified.
  - b. Initiate fire suppression actions in the work area to prevent fire spread to or on federally administered lands.
  - c. Carry shovels, water, and fire extinguishers that are rated at a minimum as ABC - 5 pound on all equipment and vehicles. If a fire spreads beyond the suppression capability of workers with these tools, all will cease fire suppression action and leave the area immediately via pre-identified escape routes.
  - d. Notify the Richfield Interagency Fire Center (435) 896-8404 (or 911) immediately of the location and status of any escaped fire. Construction personnel will be trained in basic fire control procedures.

22. The Holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the Holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the permit area or on facilities authorized under this permit. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.
23. This right-of-way grant is issued subject to all valid existing rights including other authorized rights-of-way that may be located adjacent to or which may be affected by the construction, operation, and termination of this subject right-of-way. Any existing facilities which may be damaged during operation, maintenance, or termination of this right-of-way will be repaired or restored to the same condition as existed prior to the damage. The Holder must also coordinate the proposed project with adjacent non-federal landowners.
24. The Holder will not perform maintenance on vehicles on public land, unless it is an emergency, in which case, containment material must be put under the vehicle.
25. When the authorized use is no longer needed, and prior to abandonment of the facilities, the Holder or authorized representative will meet the Authorized Officer to arrange a joint inspection of the right-of-way. The inspection will be held to agree on an acceptable abandonment and rehabilitation plan. The Authorized Officer must approve the plan in writing prior to the Holder commencing any abandonment and/or rehabilitation activities.